

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20064
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On January 22, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] proposing income tax, penalty, and interest for tax years 1999 through 2005 in the total amount of \$128,377.

The petitioner protested the determination. He did not request a hearing but did provide additional information. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

**63-3030. Persons required to make returns of income.**

(a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code).

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500).

Information available to the Tax Commission indicated the petitioner was an Idaho resident with an Idaho filing requirement during the years at issue. He was owner/operator of a business located within the state of Idaho. Because the Tax Commission's files did not include

the petitioner's Idaho individual income tax returns, the Bureau issued a NODD. The petitioner appealed the determination.

In the letter of appeal, the petitioner said he intended to file the missing returns. Subsequently, returns for tax years 1999, 2000, 2003, and 2004 were submitted to the Tax Commission. The taxpayer explained that during 2005 he took no contract and sold his business for a loss.

The Tax Commission has examined the returns the taxpayer submitted and the taxpayer's income records for 2005. It has been determined that the Idaho returns the taxpayer and his wife submitted as married filing jointly with two dependents are better representations of the taxpayer's Idaho individual income tax responsibility than the returns prepared by the Bureau. In addition, it has been determined the taxpayer did not have a filing requirement for filing an Idaho individual income tax return for 2005.

Therefore, the Tax Commission accepts the returns the taxpayer submitted for tax years 1999, 2000, 2003, and 2004 subject to examination at a later date as provided in Idaho Code. The portion of the NODD addressing tax years 1999, 2000, 2003, 2004, and 2005 is cancelled and will not be discussed further in this decision.

After allowing the petitioner additional time to prepare and submit the balance of the missing returns, the petitioner's file was transferred to the Legal/Tax Policy Division for administrative review. On November 2, 2007, the petitioner telephoned to say he would bring in his 2001 and 2002 Idaho returns. The Tax Commission has no record of ever receiving those returns.

The Bureau calculated the petitioner's Idaho income tax responsibility using the information contained in the records [Redacted] and the State Tax Commission. [Redacted].

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for tax years 2001 and 2002. No withholding was identified. The interest and penalty calculated pursuant to Idaho Code §§ 63-3045 and 63-3046 were reviewed and found to be proper and in accordance with Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated January 22, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$15,780	\$3,945	\$5,566	\$25,291
2002	15,598	3,900	4,500	<u>23,998</u>
			TOTAL DUE	\$49,289

Interest is calculated through January 15, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

\_\_\_\_\_